IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.157 OF 2004

The Commissioner of Income Tax,
Central III, Mumbai .. Appellant.

V/s.

M/s.Indian Plywood Mfg.Co. .. Respondent.

Mr.R.V. Desai, senior counsel with Ms.S.V. Bharucha for the appellant.

**CORAM : S. RADHAKRISHNAN &**
**J.P. DEVADHAR, JJ.**

**DATED : 31ST JANUARY, 2005.**

P.C.

Heard learned counsel for the appellant. Perused the order dated 31st March, 2002 passed by the Income Tax Appellate Tribunal, Mumbai Bench.

2. As far as substantial question (a) is concerned, the same is already covered by the judgment of this Court in the case of **CIT V/s. Bharat Petroleum Corporation Ltd. [116 Taxman 775 (Bombay)].** Hence, the same does not survive. As far as substantial question (b) and (c) are concerned, the same has already been concluded in the earlier assessment order and they have become final now as far as the Tribunal is concerned and the learned counsel for the appellant is unable to say whether the

department has approached this court in this regard. Hence, the aforesaid questions also do not arise as they have become final. As far as substantial question (d) is concerned, there is finding given by the Tribunal that the amount has already been taxed in the assessment order passed for assessment year 1986-1987. Therefore, there is no question of taxing again in the assessment order 1989-1990 which is the subject matter of the present appeal. As far as substantial question (e) is concerned, the same is covered by the judgment of this court in the case of **CIT V/s. Sudarshan Chemicals Ind. Ltd. [245 ITR 769].** Hence, the same does not arise. Similarly, substantial question (f) is concerned, on facts we find no substantial question of law.

3. Hence, the Income Tax Appeal stands dismissed.

(S. RADHAKRISHNAN. J.)

(J.P. DEVADHAR, J.)